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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,951	02/06/2002	Srinivasa Sesha Soma Sekhar Muppidi	10.0894	3621
21919	7590	06/29/2006	EXAMINER	
MEREK, BLACKMON & VOORHEES, LLC 673 S. WASHINGTON ST. ALEXANDRIA, VA 22314			LEE, DAVID J	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 06/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/071,951

Applicant(s)

MUPPIDI ET AL.

Examiner

David Lee

Art Unit

2613

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1,2,4-16,20-54.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
see Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


KENNETH VANDERPUYE
SUPERVISORY PATENT EXAMINER

Applicant argues that DeVette does not teach the step of each node of a plurality of optical nodes determining a network configuration having a topological map of network links corresponding to the discovered neighboring nodes. Examiner disagrees. Each node of DeVette comprises an OSC processing system (234 of fig. 2A) which functions to circulate a configuration signal via a node-to-node message. This message, which acts like a token being passed along the network, contains information defining the network configuration corresponding to the previously discovered neighboring nodes (see Table 1 and col. 15, lines 39-65; col. 14, lines 17-45). Each node generates and transmits a connectivity report (i.e. – “determining”; see also col. 19) reflecting the reported topological map of network links corresponding to the discovered neighboring nodes (col. 22, lines 42-54).

In addition, applicant argues that DeVette does not teach the step of generating an alarm signal responsive to detecting an error between the network configuration and a planned configuration. Examiner disagrees. In column 20, lines 62 and on, DeVette discloses that “an alignment audit will be conducted in which the connectivity map as then constituted is saved and completely erased. As the connectivity map is thereafter regenerated, any discrepancies which reflect the existence of a fault or a reprovisioning will become apparent and can be processed.” DeVette further discloses that the theoretical topology and connectivity data can be compared with the actual connectivity of the network (col. 2, lines 55-65). In addition, the “identification data” as disclosed in claim 23 of DeVette can be clearly and reasonably interpreted as “planned configuration” in that the identification data is used to facilitate the configuration signal.

Applicant argues that DeVette fails to teach the step of each node publishing the identity of its neighbors. However, the opposite is clearly true based on DeVette’s disclosure of the publishing procedure. DeVette discloses that each node publishes neighboring node information through the OSC channel (e.g. – see col. 14, lines 16-28).

Regarding claim 36, applicant seems to have misinterpreted examiner’s use of DeVette’s network. The central network monitor (123 of fig. 1) is considered to be part of the optical node (101 of fig. 1). See also column 11, lines 18-25.

Applicant’s argument that there is no basis for the combination of DeVette and Elliot. However, it is clear that both systems operate in a neighbor-node publishing environment in an optical network and both implement neighbor discovery means. As such, a skilled artisan would have been motivated to implement a bidirectional neighbor discovery means as suggested by Elliot in order to gather network information more efficiently. It would have been obvious to a skilled artisan at the time of invention to implement the bidirectional neighbor discovery means of Elliot in the node of DeVette in order to map network topology rapidly and effectively.

In response to applicant’s argument that the examiner’s conclusion of obviousness is based upon improper hindsight reasoning, it is noted that the rejections to which applicant is arguing are under USC 102. Therefore, it is not a question of obviousness/hindsight reasoning but rather the extent to which the references are interpreted and how the limitations are anticipated by the prior art. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Applicant is also reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).